

United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
FILLMORE FIELD OFFICE

35 East 500 North  
Fillmore, UT 84631



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DIV. OF OIL, GAS & MINING

In Reply Refer to:

3800

(U-010)

UTU-075884-03

February 20, 2003

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RETURN RECEIPT REQUESTED

DECISION

LARRY MCCURDY  
PRESIDENT  
UNIQUE MINERALS INC.  
18458 WEST CARTER CIRCLE  
CEDAR VALLEY UT 84103

: REJECTION OF PLAN OF  
OPERATIONS

Failure to Follow Customary Exploration and Development to Prevent Undue and Unnecessary Degradation

On January 21, 2003, we received a Plan of Operations (Plan) submitted by Mr. Dick Stone on behalf of Unique Minerals Inc. (UMI), which proposed operations on approximately 400 acres in Sections 23 and 24, T. 17 S., R 13 W. This new Plan appears to be almost identical to the one Mr. Stone submitted on June 9, 1999 which was rejected on September 18, 2000 for failure to supply required additional information.

The Plan does not meet the requirement of § 3809.420(a)(2): "You must avoid unnecessary impacts and facilitate reclamation by following a reasonable and customary mineral exploration, development, mining and reclamation sequence." On October 13, 1998, we accepted a Notice submitted by Dick Stone that has recently been transferred to UMI. The Notice allowed a maximum of five acres of disturbance. To date, less than two acres have been disturbed under that notice. Our rough estimates indicate that you could continue mining back into the hill where you've begun your operation and mine over 175,000 cubic yards, or 350,000 tons of material before you would exceed five acres of disturbance. (Our estimates are based on the assumption that the Marjum Formation limestone deposit you are mining will remain continuous as you mine back into the hill. This assumption is based on the Lehi Hintze's geologic map of the region, which indicates that the deposit extends back for several hundred feet. However, since no exploratory drilling has been conducted, our estimates may be based on an erroneous assumption.) At your proposed production rate of 80,000 tons a year, it could be four years before it will be necessary to have an approved Plan that will allow you to exceed five acres. At that production rate, jumping from a five acre Notice to a 400 acre Plan, is not a customary pace and progression of a mining operation, especially in the absence of exploratory drilling to determine the extent of



the mineral deposit. The fore mentioned geologic map indicates that only about half of the 400 acres you propose disturbing is comprised of the deposit you are currently mining. Thus, approving the Plan to authorize all 400 acres to be disturbed would be allowing unnecessary and undue degradation, so in accordance with § 3809.411(d)(3)(iii), we must reject your Plan.

As your disturbance approaches five acres in size, we suggest that UMI complete the necessary exploration required to develop a mine plan, then resubmit a Plan using the Utah Division of Oil Gas and Mining (UDOGM) Notice of Intention to Commence Large Mining Operations (MR-LMO), since that agency will require that UMI obtain a permit to mine from them before it exceeds five acres of disturbance. Submittal of the MR-LMO to UDOGM and payment of that agency's required application fee is considered part of a customary pace and progression of a mining operation. There is no particular form on which to submit a Plan to BLM; if you use the MR-LMO to do so, you must also ensure that you have provided all the information required in §3809.401 of the enclosed regulations. Also, upon approval of the Plan, you will be subject to the 43 CFR 3809 regulations that went into effect on December 31, 2001, and will be required to establish an escrow account for the value of the material mined, until such time as a validity exam can be completed that will determine whether or not the deposit is an uncommon variety, and locatable under the mining laws. Until then, you can amend your Notice to conduct exploration activities, provided that the exploration work, combined with UMI's current disturbance, does not exceed five acres.

If you do not agree with this decision, you have the right to request review by the Utah State Director (SD), of the Bureau of Land Management, in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement must be filed in writhing within 30 days after your receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT  
UTAH STATE OFFICE  
PO BOX 45155  
SLC, UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's decision or decision not to review.

You may also bypass State Director review, and appeal directly to OHA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Fillmore Field Office within 30 days of receipt of this decision. You have the burden of showing that the decision appealed from is in error.

If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939. January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), the petition for a stay must accompany your notice of appeal. A



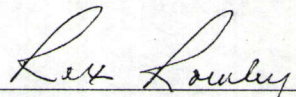
petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.412) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

**Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

As mandated in 43 CFR 3809.808, this decision will be in full force and effect during review and appeal unless a written request for a stay is granted.

  
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Rex Rowley  
Field Office Manager

Enclosure

43 CFR 3809 Regulations  
Form 1842-1

cc: Tom Munson, UDOGM (S/027/074 {with copy of Plan})  
Dick Stone, 7458 Derry Street, Harrisburg, PA 17111